

RONALD EDWARDS

IBLA 84-89

Decided June 27, 1985

Appeal from a decision of the California State Office, Bureau of Land Management, declaring the Dorian placer mining claim abandoned and void. CA MC 103972.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim -- Mining Claims: Recordation

Failure to file instruments required by 43 U.S.C. § 1744 (1982) and 43 CFR 3833.2 in the proper BLM office within the time prescribed constitutes abandonment of the mining claim.

2. Evidence: Presumptions -- Evidence: Sufficiency -- Rules of Practice: Evidence

The legal presumption of regularity that administrative officials have properly discharged their duties and not lost or misplaced legally significant documents filed with them is rebuttable by probative evidence to the contrary. However, an uncorroborated statement that an affidavit of assessment work was timely filed with the proper BLM office is insufficient to overcome that presumption.

APPEARANCES: Ronald Edwards, pro se.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Ronald Edwards appeals the October 19, 1983, decision of the California State Office, Bureau of Land Management (BLM), declaring the Dorian placer mining claim, CA MC 103972, abandoned and void for failure to file with BLM on or before December 30, 1982, evidence of assessment work or notice of intention to hold the claim. The subject mining claim was located by Edwards, Larry D. Morris, Patricia L. Morris, and Ruth Edwards, on December 20, 1981. The location notice for the claim was filed with BLM on January 21, 1982.

[1] For an unpatented mining claim located after October 21, 1976, the owner must file prior to December 31 of each year following the calendar year in which the claim was located either a notice of intention to hold the mining claim or an affidavit of assessment work with the proper BLM office.

43 U.S.C. § 1744(a) (1982). The mining claim is deemed conclusively to be abandoned if the owner fails to file one of the documents required by this statute. 43 U.S.C. § 1744(c); 43 CFR 3833.4; United States v. Locke, 105 S. Ct. 1785 (1985).

Edwards submitted evidence showing that a proof of labor for this and two other claims was recorded with the San Bernardino County Recorder on April 7, 1982. He states that a copy of it was forwarded to BLM on April 23, 1982. BLM states that it did not receive copies of the 1982 proof of labor for these claims.

[2] A legal presumption of regularity supports the official acts of public officers in the proper discharge of their duties. Cascade Energy & Metals Corp., 87 IBLA 113 (1985); John R. Wellborn, 87 IBLA 20 (1985). Administrative officials are presumed to have properly discharged their duties and not lost or misplaced legally significant documents submitted for filing. H. S. Rademacher, 58 IBLA 152, 88 I.D. 873 (1981). When BLM has no record of receiving a document, the presumption of regularity is not overcome by an uncorroborated statement that the document was submitted to BLM. Glenn W. Gallagher, 66 IBLA 49 (1982). Nor is the presumption rebutted by evidence the claimant timely filed the proof of labor with the county. John R. Wellborn, *supra*.

The evidence Edwards submitted, the proof of labor recorded by the county in 1982, and the otherwise uncorroborated statement that he forwarded the proof of labor to BLM on April 23, 1982, is insufficient to overcome this presumption of regularity. See Wilson v. Hodel, 758 F.2d 1369, 1374 (10th Cir. 1985). BLM properly declared the mining claim to be void and abandoned.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Will A. Irwin  
Administrative Judge

We concur:

James L. Burski  
Administrative Judge

C. Randall Grant, Jr.  
Administrative Judge

